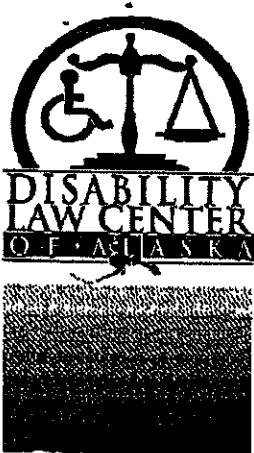


COPY



ANCHORAGE
3330 Arctic Boulevard
Suite 103
Anchorage, AK 99503
(907) 565-1002
FAX (907) 565-1000
1-800-478-1234

November 22, 2005

Brad Owens
Jermaine, Dunnagan and Owens
3000 "A" Street, Suite 300
Anchorage, AK 99503

Via Fax and U.S. Mail

RE: N.S. and ASD

Dear Brad:

This is in response to your Rule 68 Offer of Judgment forwarded late last week.

I have been counsel practicing special education law for many years. It is my view that as much as possible fees should be amicably resolved so that I may devote more of my attention to the merits of my client's cases. Fortunately, in other states where I have practiced, I have had opposing counsel who concurred, for the most part, in that approach. As a result, I have filed very few fees petitions over the years. I think this is very consistent with IDEA.

Here, it is unfortunate that you have unnecessarily increased fees and costs to both your clients and to DLC. We made good faith efforts to solve this matter prior to filing it in federal court, which you refused. We then had to file the case in federal court. Even after filing, we tried to keep costs down for both sides proposing resolution on the fees petition without additional discovery. You refused that. You then served unnecessary discovery on us and are continuing to turn this case into a "second litigation" of the original matter. As a result, our fees are approximately \$15,000.

Based on your unreasonableness to date, and the additional fees you have caused and are continuing to cause, we cannot accept your Offer of Judgment of \$7800. In response, our counteroffer to resolve this fees petition is below and is open until December 2, 2005:

1. Payment of the original \$12,024.90 fees due.
2. Payment of the filing fee.
3. Payment of our fees for filing the petition of \$450.00.
4. Payment of at least \$1,000.00 of our fees for the defense of this fees petition in court.
5. Stipulation in this case to the reasonableness of my hourly rate of \$225.00.
6. We will waive any fees beyond the \$1,000.00 referenced in No. 4.
7. We will waive any costs we incurred to date in the federal court matter.

This letter is sent consistent with FRE 408. Thank you for your attention to this matter.

MEMBER OF THE
NATIONAL
ASSOCIATION OF
PROTECTION &
ADVOCACY
SYSTEMS

EXHIBIT 1
Page 1 of 2

Very truly yours,

S. Kerr for

Sonja D. Kerr
Supervising Attorney

c: Jill Simmons

EXHIBIT 1
Page 2 of 2


Response No. 25

31		
IDE LR	<u>Independent Sch. Dist. No. 623</u>	
17		07/07/99
317-2		
31 LRP	Minnesota State Educational Agency	
5909		
31		
IDE LR	<u>Duneland Sch. Corp.</u>	
222		01/19/00
1119.9		
9	Indiana State Educational Agency	
31 LRP		
5974		
32		
IDE LR	<u>Duneland Sch. Corp.</u>	
158		03/30/00
1119.9		
9	Indiana State Educational Agency	
32 LRP		
6216		
N/A	<u>Poplar Bluff R-I School District</u>	
102		04/11/00
LRP		
4637	Missouri State Educational Agency	
N/A	<u>Lee's Summit School District</u>	
102		10/14/99
LRP		
4771	Missouri State Educational Agency	
H317-2	<u>Independent School District No. 623 (Roseville)</u>	
102		07/07/99
LRP		
6978	Minnesota State Educational Agency	
H331-1M	<u>Independent School District No. 833 (South Washington County)</u>	
102		06/02/99
LRP		
6992	Minnesota State Educational Agency	
331-2	<u>Independent School District No. 833 South Washington County</u>	
102		06/16/99
LRP		
6994	Minnesota State Educational Agency	
H347	<u>Independent School District No. 192, Farmington</u>	
102		11/22/99
LRP		
7022	Minnesota State Educational Agency	
H354-1	<u>Independent School District # 0270</u>	
102		02/24/00
LRP		
7030	Minnesota State Educational Agency	
H354-2	<u>Independent School District No. 270, Hopkins</u>	
102		01/11/01
LRP		
7032	Minnesota State Educational Agency	
N/A	<u>Poplar Bluff R-I School District</u>	
102		04/10/00

LRP 7355	Missouri State Educational Agency	
N/A 102	<u>Lee's Summit School District</u>	
LRP 7363	Missouri State Educational Agency	10/08/99
36 IDELR 263	<u>School Bd. of Indep. Sch. Dist. No. 11, Anoka-Hennepin</u>	
01-342 (SRN)	<u>v. Pachi by Pachi</u>	05/10/02
102 LRP 10125	U.S. District Court, Minnesota	
331-2 102	<u>Independent School District No. 833 South Washington</u>	
LRP 12791	County Minnesota State Educational Agency	06/15/99
347 102	<u>Independent School District No. 192, Farmington</u>	
LRP 12807	Minnesota State Educational Agency	11/22/99
42 IDELR 7		
Civ.03- 2437(J NE/JGL)	<u>Wachlarowicz by Wachlarowicz v. School Bd. of Indep. Sch. Dist. No. 832</u>	09/30/04
104 LRP 45985	U.S. District Court, Minnesota	
42 IDELR 83		
Civ.02- 3698	<u>School Bd. of Indep. Sch. Dist. No. 11 v. Renollett by Renollett</u>	11/01/04
JNE/JGL 104 LRP 51115	U.S. District Court, Minnesota	
44 IDELR 117	<u>Anchorage Sch. Dist.</u>	
HR 05-18 105 LRP 22983	Alaska State Educational Agency	01/20/05
HR 05-18 105 LRP 22987	<u>ANCHORAGE SCHOOL DISTRICT</u> Alaska State Educational Agency	12/19/04
HR 05-19 105 LRP 22990	<u>ANCHORAGE SCHOOL DISTRICT</u> Alaska State Educational Agency	12/21/04
44 IDELR 55	<u>Anchorage Sch. Dist.</u>	
HR 05-12 105 LRP 23005	Alaska State Educational Agency	02/25/05

4 ECLPR
630 Anchorage Sch. Dist.
05-17 03/29/05
105 LRP Alaska State Educational Agency
23008
HR 05-13 Anchorage Sch. Dist.
105 LRP 06/28/05
50363 Alaska State Educational Agency

395-2 In re: Student with a Disability
102 LRP 12/27/00
19805 Minnesota State Educational Agency

 38 IDELR School Bd. of Indep. Sch. Dist.
123 No. 11, Anoka-Hennepin v.
01-342 Pachl by Pachl 12/23/02
(PAM/SRN)
103 LRP 5124 U.S. District Court, Minnesota

317-2 Independent School District
102 LRP No. 623, Roseville 07/07/99
19779 Minnesota State
Educational Agency

354 Independent School District
102 LRP # 0270 02/24/00
12815 Minnesota State
Educational Agency

354-2 Independent School
102 LRP 12813 District No. 270,
Hopkins 12/21/01
Minnesota State
Educational Agency

Mahesh REINHOLDSON, et al., v. STATE OF MINNESOTA, et al, 346 F.3d 847 (8th Cir. 2003)